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WEITERE INFORMATIONEN OK

Wednesday, January 18, 2006

Professionals sue to stop illegal NSA surveillance

A group of U.S.-based professionals who often communicate overseas has sued the U.S. National Security Agency, observing that their professional communications and other free speech have been chilled by illegal NSA surveillance and that their Fourth Amendment rights to speak privately with clients, sources, and so on have been violated. Here is their complaint to the U.S. federal court. The plaintiffs say they "have a well-founded belief that their communications are being intercepted" by the NSA's illegal surveillance of domestic-overseas communications. The NSA's program is "is disrupting the ability of the plaintiffs to talk with sources, locate witnesses, conduct scholarship, and engage in advocacy," and thus the NSA is "seriously compromising the free speech and privacy rights of the plaintiffs and others" in violation of the First and Fourth Amendments and the separation of powers. I have explained why the NSA domestic-overseas surveillance program violates the Fourth Amendment and separation of powers here. I look forward to reading the plaintiffs' arguments for their free speech and association claims.

The lead plaintiff is the American Civil Liberties Union (ACLU). Among the plaintiffs is James Bamford, author of *The Puzzle Palace* and *Body of Secrets*, perhaps the best books written about the NSA. It will be interesting to see U.S. discovery rules (among the most intrusive in the world) pitted against U.S. national security secrecy rules (among the most paranoid in the world).

The complaint has some spelling errors and typos, suggesting that it was rather quickly thrown together. Here are the plaintiffs' Causes of Action and Prayer for Relief:

> CAUSES OF ACTION
>
> 192. The Program violates plaintiffs' free speech and associational rights guaranteed by the First Amendment.
>
> 193. The Program violates plaintiffs' privacy rights guaranteed by the Fourth Amendment.
>
> 194. The Program violates the principle of separation of powers because it was authorized by President Bush in excess of his Executive authority under Article II of the United States Constitution and is contrary to limits imposed by Congress.
>
> 195. The Program violates the Administrative Procedures Act because the NSA's actions under the Program exceed statutory authority and limitations imposed by Congress through FISA and Title III; are not otherwise in accordance with law; are contrary to constitutional right; and are taken without observance of procedures required by law.

Pages

- Home

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Nick Szabo

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PRAYER FOR RELIEF

WHEREFORE plaintiffs respectfully requests[sic] that the Court:
1. Declare that the Program is unconstitutional under the First and Fourth Amendments;

2. Declare that the Program violates the principle of separation of powers;

2.[sic] Declare that the Program violates the Administrative Procedures Act;

3. Permanently enjoin defendants from utilizing the Program;

4. Award Plaintiff fees and costs pursuant to 28 U.S.C. § 2412;

5. Grant such other and further relief as the Court deems just and proper.

Posted by Nick Szabo at 1:22 PM

2 comments:

jerome carter said...

It doesn't matter how intrusive the discovery rules are, since the court is going to feel free to violate them at will for the sake of "national security". "National security" increasingly means "unaccountable government." It's security for the bureaucrats and insecurity for the rest of us.

8:10 AM

Anonymous said...

The reaction against the NSA surveillance may indicate that the mass paranoia this country has been caught up in since 9/11 is starting to break. On the other hand, I have recently read the words of so many children in the form of adults whose writing about the latest Bin Laden puffery is still shaking on the screen long after the author wrote it, quivering in fear. Are we really a nation of cowardly children who so desparately need Big Daddy in D.C. to protect us from all risk? If so, we will surely lose our freedoms.

9:01 AM

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- ► 2018 (1)
- ► 2017 (3)
- ► 2016 (4)
- ► 2015 (3)
- ► 2014 (3)
- ► 2013 (3)
- ► 2012 (8)
- ► 2011 (12)
- ► 2010 (9)
- ► 2009 (29)
- ► 2008 (55)
- ► 2007 (47)
- ▼ 2006 (130)
  - ► December (4)
  - ► November (7)
  - ► October (15)
  - ► September (15)
  - ► August (20)
  - ► July (5)
  - ► June (10)
  - ► May (4)
  - ► April (3)
  - ► March (11)
  - ► February (10)
  - ▼ January (26)
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    - Two views of Tiananmen Square
    - Free banker to be on Federal Reserve Board?
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